**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.377 OF 2007**
IN
**APPEAL FROM ORDER (ST) NO.6522 OF 2007**

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| Office notes, office memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders. |
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Shri Jayesh S. Kalanke for the Applicant.

**CORAM : ABHAY S.OKA, J.**
**DATED : APRIL 04, 2007.**

**P.C.:**

1. Heard Advocate for the Applicant. In the Appeal From Order the Applicant has taken exception to order dated 17th November, 2006 passed by the learned Judge of the City Civil Court. By the said order, Application made by the Applicant before the trial Court for framing certain issues as preliminary issues has been rejected. Against the said order, an Appeal From Order will not lie as the same is not maintainable. The learned Advocate for the Applicant submitted that the Appeal will lie under section 96 of the Code of Civil Procedure, 1908. Appeal under section 96 is maintainable against a decree. The impugned order is not a decree. As the Appeal From Order itself

is not maintainable, Application for condonation of delay is rejected. Rejection of this Application will not preclude the Applicant from taking out appropriate proceedings for challenging the impugned order. All contentions in that behalf are kept open.

**JUDGE**